

AMENDED IN SENATE JUNE 3, 2010
AMENDED IN SENATE MARCH 25, 2010
AMENDED IN ASSEMBLY JUNE 2, 2009
AMENDED IN ASSEMBLY APRIL 22, 2009
AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 950

Introduced by Assembly Member Hernandez

February 26, 2009

An act to amend Sections 1250, 1265.7, 1267.13, and 1267.15 of the Health and Safety Code, relating to hospice care. An act to amend Sections 1250, 1250.1, 1266, 1746, and 128755 of, and to add Sections 1749.1 and 1749.3 to, the Health and Safety Code, relating to hospice care.

LEGISLATIVE COUNSEL'S DIGEST

AB 950, as amended, Hernandez. Hospice providers: licensed hospice facilities.

Under existing law, the State Department of Public Health licenses and regulates health facilities, including skilled nursing facilities, intermediate care facilities, and congregate living facilities. Under existing law, the department also licenses and regulates hospices and the provision of hospice services. Violation of these provisions is a crime.

This bill would create a new health facility licensing category for, and require the department to license and ~~regulate, congregate living~~

~~health facility hospices~~, regulate hospice facilities, as defined. It would impose various requirements on these facilities.

This bill would also permit the department to use specified federal regulations as the basis for hospice facility licensure until the department promulgates regulations.

Because this bill would create a new crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Hospice is a special type of health care service designed to
- 4 provide palliative care and to alleviate the physical, emotional,
- 5 social, and spiritual discomforts of an individual who is
- 6 experiencing the last phases of life due to terminal illness.
- 7 (b) Hospice services provide supportive care to the primary
- 8 caregiver and family of the patient.
- 9 (c) Hospice services are provided primarily in the home, but
- 10 can also be provided in residential care or in health facility inpatient
- 11 settings.
- 12 (d) Persons who do not have family or caregivers who are able
- 13 to provide care in the home should be able to have care provided
- 14 in a home-like environment, rather than in an institutional setting,
- 15 if that is their preference.
- 16 (e) Permitting the establishment of licensed hospice facilities
- 17 provides additional care and treatment options for persons who
- 18 are at the end of life.
- 19 (f) The establishment of licensed hospice facilities is permitted
- 20 under federal law and by many other states.
- 21 (g) Permitting the establishment of licensed hospice facilities
- 22 is consistent with federal legal affirmations of the right of an

1 individual to refuse life-sustaining treatment and that each person's
2 preferences about his or her end-of-life care should be considered.

3 (h) Permitting the establishment of licensed hospice facilities
4 is also consistent with the decision of the United States Supreme
5 Court in *Olmstead v. L.C. by Zimring* (1999) 527 U.S. 581, which
6 held that persons with disabilities have the right to live in the most
7 integrated setting possible with appropriate access to care and
8 choice of community-based services and placement options.

9 (i) It is the intent of the Legislature to permit the licensure of
10 hospice inpatient facilities in order to improve access to care, to
11 provide additional care options, and to provide for a home-like
12 environment within which to provide care and treatment for persons
13 who are experiencing the last phases of life.

14 SEC. 2. Section 1250 of the Health and Safety Code is amended
15 to read:

16 1250. As used in this chapter, "health facility" means any
17 facility, place, or building that is organized, maintained, and
18 operated for the diagnosis, care, prevention, and treatment of
19 human illness, physical or mental, including convalescence and
20 rehabilitation and including care during and after pregnancy, or
21 for any one or more of these purposes, for one or more persons,
22 to which the persons are admitted for a 24-hour stay or longer, and
23 includes the following types:

24 (a) "General acute care hospital" means a health facility having
25 a duly constituted governing body with overall administrative and
26 professional responsibility and an organized medical staff that
27 provides 24-hour inpatient care, including the following basic
28 services: medical, nursing, surgical, anesthesia, laboratory,
29 radiology, pharmacy, and dietary services. A general acute care
30 hospital may include more than one physical plant maintained and
31 operated on separate premises as provided in Section 1250.8. A
32 general acute care hospital that exclusively provides acute medical
33 rehabilitation center services, including at least physical therapy,
34 occupational therapy, and speech therapy, may provide for the
35 required surgical and anesthesia services through a contract with
36 another acute care hospital. In addition, a general acute care
37 hospital that, on July 1, 1983, provided required surgical and
38 anesthesia services through a contract or agreement with another
39 acute care hospital may continue to provide these surgical and
40 anesthesia services through a contract or agreement with an acute

1 care hospital. The general acute care hospital operated by the State
2 Department of Developmental Services at Agnews Developmental
3 Center may, until June 30, 2007, provide surgery and anesthesia
4 services through a contract or agreement with another acute care
5 hospital. Notwithstanding the requirements of this subdivision, a
6 general acute care hospital operated by the Department of
7 Corrections and Rehabilitation or the Department of Veterans
8 Affairs may provide surgery and anesthesia services during normal
9 weekday working hours, and not provide these services during
10 other hours of the weekday or on weekends or holidays, if the
11 general acute care hospital otherwise meets the requirements of
12 this section.

13 A "general acute care hospital" includes a "rural general acute
14 care hospital." However, a "rural general acute care hospital" shall
15 not be required by the department to provide surgery and anesthesia
16 services. A "rural general acute care hospital" shall meet either of
17 the following conditions:

18 (1) The hospital meets criteria for designation within peer group
19 six or eight, as defined in the report entitled Hospital Peer Grouping
20 for Efficiency Comparison, dated December 20, 1982.

21 (2) The hospital meets the criteria for designation within peer
22 group five or seven, as defined in the report entitled Hospital Peer
23 Grouping for Efficiency Comparison, dated December 20, 1982,
24 and has no more than 76 acute care beds and is located in a census
25 dwelling place of 15,000 or less population according to the 1980
26 federal census.

27 (b) "Acute psychiatric hospital" means a health facility having
28 a duly constituted governing body with overall administrative and
29 professional responsibility and an organized medical staff that
30 provides 24-hour inpatient care for mentally disordered,
31 incompetent, or other patients referred to in Division 5
32 (commencing with Section 5000) or Division 6 (commencing with
33 Section 6000) of the Welfare and Institutions Code, including the
34 following basic services: medical, nursing, rehabilitative,
35 pharmacy, and dietary services.

36 (c) "Skilled nursing facility" means a health facility that provides
37 skilled nursing care and supportive care to patients whose primary
38 need is for availability of skilled nursing care on an extended basis.

39 (d) "Intermediate care facility" means a health facility that
40 provides inpatient care to ambulatory or nonambulatory patients

1 who have recurring need for skilled nursing supervision and need
2 supportive care, but who do not require availability of continuous
3 skilled nursing care.

4 (e) “Intermediate care facility/developmentally disabled
5 habilitative” means a facility with a capacity of 4 to 15 beds that
6 provides 24-hour personal care, habilitation, developmental, and
7 supportive health services to 15 or fewer persons with
8 developmental disabilities who have intermittent recurring needs
9 for nursing services, but have been certified by a physician and
10 surgeon as not requiring availability of continuous skilled nursing
11 care.

12 (f) “Special hospital” means a health facility having a duly
13 constituted governing body with overall administrative and
14 professional responsibility and an organized medical or dental staff
15 that provides inpatient or outpatient care in dentistry or maternity.

16 (g) “Intermediate care facility/developmentally disabled” means
17 a facility that provides 24-hour personal care, habilitation,
18 developmental, and supportive health services to persons with
19 developmental disabilities whose primary need is for
20 developmental services and who have a recurring but intermittent
21 need for skilled nursing services.

22 (h) “Intermediate care facility/developmentally
23 disabled-nursing” means a facility with a capacity of 4 to 15 beds
24 that provides 24-hour personal care, developmental services, and
25 nursing supervision for persons with developmental disabilities
26 who have intermittent recurring needs for skilled nursing care but
27 have been certified by a physician and surgeon as not requiring
28 continuous skilled nursing care. The facility shall serve medically
29 fragile persons with developmental disabilities or who demonstrate
30 significant developmental delay that may lead to a developmental
31 disability if not treated.

32 (i) (1) “Congregate living health facility” means a residential
33 home with a capacity, except as provided in paragraph (4), of no
34 more than 12 beds, that provides inpatient care, including the
35 following basic services: medical supervision, 24-hour skilled
36 nursing and supportive care, pharmacy, dietary, social, recreational,
37 and at least one type of service specified in paragraph (2). The
38 primary need of congregate living health facility residents shall
39 be for availability of skilled nursing care on a recurring,
40 intermittent, extended, or continuous basis. This care is generally

1 less intense than that provided in general acute care hospitals but
2 more intense than that provided in skilled nursing facilities.

3 (2) Congregate living health facilities shall provide one of the
4 following services:

5 (A) Services for persons who are mentally alert, persons with
6 physical disabilities, who may be ventilator dependent.

7 (B) Services for persons who have a diagnosis of terminal
8 illness, a diagnosis of a life-threatening illness, or both. Terminal
9 illness means the individual has a life expectancy of six months
10 or less as stated in writing by his or her attending physician and
11 surgeon. A “life-threatening illness” means the individual has an
12 illness that can lead to a possibility of a termination of life within
13 five years or less as stated in writing by his or her attending
14 physician and surgeon.

15 (C) Services for persons who are catastrophically and severely
16 disabled. A person who is catastrophically and severely disabled
17 means a person whose origin of disability was acquired through
18 trauma or nondegenerative neurologic illness, for whom it has
19 been determined that active rehabilitation would be beneficial and
20 to whom these services are being provided. Services offered by a
21 congregate living health facility to a person who is catastrophically
22 disabled shall include, but not be limited to, speech, physical, and
23 occupational therapy.

24 ~~(D) Services for persons who have a diagnosis of a terminal~~
25 ~~illness, or are eligible for hospice services, palliative, or preliminary~~
26 ~~care, as permitted under state law.~~

27 ~~(i) A facility that provides these services shall be known as a~~
28 ~~congregate living health facility-hospice.~~

29 ~~(ii) A congregate living health facility-hospice shall be owned~~
30 ~~by and licensed to a hospice licensed and certified in California~~
31 ~~to provide routine and continuous care, as defined by the federal~~
32 ~~Centers for Medicare and Medicaid Services.~~

33 ~~(iii) A congregate living health facility-hospice may also provide~~
34 ~~short-term respite care, inpatient care directly, or other optional~~
35 ~~services, pursuant to subparagraph (F) of paragraph (2) of~~
36 ~~subdivision (n) of Section 1267.13.~~

37 (3) A congregate living health facility license shall specify which
38 of the types of persons described in paragraph (2) to whom a
39 facility is licensed to provide services.

1 (4) (A) A facility operated by a city and county for the purposes
2 of delivering services under this section may have a capacity of
3 59 beds.

4 (B) A congregate living health facility not operated by a city
5 and county servicing persons who are terminally ill, persons who
6 have been diagnosed with a life-threatening illness, or both, that
7 is located in a county with a population of 500,000 or more persons
8 may have not more than 25 beds for the purpose of serving persons
9 who are terminally ill.

10 (C) A congregate living health facility not operated by a city
11 and county serving persons who are catastrophically and severely
12 disabled, as defined in subparagraph (C) of paragraph (2) that is
13 located in a county of 500,000 or more persons may have not more
14 than 12 beds for the purpose of serving persons who are
15 catastrophically and severely disabled.

16 ~~(D) A congregate living health facility hospice may have a~~
17 ~~capacity of 36 beds.~~

18 (5) A congregate living health facility shall have a
19 noninstitutional, home-like environment.

20 (j) (1) "Correctional treatment center" means a health facility
21 operated by the Department of Corrections and Rehabilitation, the
22 Department of Corrections and Rehabilitation, Division of Juvenile
23 Facilities, or a county, city, or city and county law enforcement
24 agency that, as determined by the state department, provides
25 inpatient health services to that portion of the inmate population
26 who do not require a general acute care level of basic services.
27 This definition shall not apply to those areas of a law enforcement
28 facility that houses inmates or wards that may be receiving
29 outpatient services and are housed separately for reasons of
30 improved access to health care, security, and protection. The health
31 services provided by a correctional treatment center shall include,
32 but are not limited to, all of the following basic services: physician
33 and surgeon, psychiatrist, psychologist, nursing, pharmacy, and
34 dietary. A correctional treatment center may provide the following
35 services: laboratory, radiology, perinatal, and any other services
36 approved by the state department.

37 (2) Outpatient surgical care with anesthesia may be provided,
38 if the correctional treatment center meets the same requirements
39 as a surgical clinic licensed pursuant to Section 1204, with the

1 exception of the requirement that patients remain less than 24
2 hours.

3 (3) Correctional treatment centers shall maintain written service
4 agreements with general acute care hospitals to provide for those
5 inmate physical health needs that cannot be met by the correctional
6 treatment center.

7 (4) Physician and surgeon services shall be readily available in
8 a correctional treatment center on a 24-hour basis.

9 (5) It is not the intent of the Legislature to have a correctional
10 treatment center supplant the general acute care hospitals at the
11 California Medical Facility, the California Men's Colony, and the
12 California Institution for Men. This subdivision shall not be
13 construed to prohibit the Department of Corrections and
14 Rehabilitation from obtaining a correctional treatment center
15 license at these sites.

16 (k) "Nursing facility" means a health facility licensed pursuant
17 to this chapter that is certified to participate as a provider of care
18 either as a skilled nursing facility in the federal Medicare Program
19 under Title XVIII of the federal Social Security Act or as a nursing
20 facility in the federal Medicaid Program under Title XIX of the
21 federal Social Security Act, or as both.

22 (l) Regulations defining a correctional treatment center described
23 in subdivision (j) that is operated by a county, city, or city and
24 county, the Department of Corrections and Rehabilitation, or the
25 Department of Corrections and Rehabilitation, Division of Juvenile
26 Facilities, shall not become effective prior to, or if effective, shall
27 be inoperative until January 1, 1996, and until that time these
28 correctional facilities are exempt from any licensing requirements.

29 (m) "Intermediate care facility/developmentally
30 disabled-continuous nursing (ICF/DD-CN)" means a homelike
31 facility with a capacity of four to eight, inclusive, beds that
32 provides 24-hour personal care, developmental services, and
33 nursing supervision for persons with developmental disabilities
34 who have continuous needs for skilled nursing care and have been
35 certified by a physician and surgeon as warranting continuous
36 skilled nursing care. The facility shall serve medically fragile
37 persons who have developmental disabilities or demonstrate
38 significant developmental delay that may lead to a developmental
39 disability if not treated. ICF/DD-CN facilities shall be subject to
40 licensure under this chapter upon adoption of licensing regulations

1 in accordance with Section 1275.3. A facility providing continuous
2 skilled nursing services to persons with developmental disabilities
3 pursuant to Section 14132.20 or 14495.10 of the Welfare and
4 Institutions Code shall apply for licensure under this subdivision
5 within 90 days after the regulations become effective, and may
6 continue to operate pursuant to those sections until its licensure
7 application is either approved or denied.

8 (n) "*Hospice facility*" means a facility licensed by the
9 department and operated by a licensed and certified provider of
10 hospice services. Hospice services include, but are not limited to,
11 routine care, continuous care, inpatient respite care, general
12 patient care, and the hospice facility services described in Section
13 1749.3.

14 ~~SEC. 3. Section 1265.7 of the Health and Safety Code is~~
15 ~~amended to read:~~

16 ~~1265.7. (a) (1) The department shall adopt regulations for the~~
17 ~~licensure of congregate living health facilities. The regulations~~
18 ~~shall include minimum standards of adequacy, safety, and~~
19 ~~sanitation of the physical plant and equipment, minimum standards~~
20 ~~for staffing with duly qualified personnel, and training of the staff,~~
21 ~~and minimum standards for providing the services offered.~~

22 ~~(2) Regulations for facilities approved to provide services for~~
23 ~~persons who may be ventilator dependent shall ensure that residents~~
24 ~~of these facilities are assured appropriate supportive health services~~
25 ~~in the most normal, least restrictive physical and rehabilitative~~
26 ~~environment appropriate to individual resident needs.~~

27 ~~(3) Regulations for facilities approved to provide services for~~
28 ~~persons who are terminally ill, who have a diagnosis of a~~
29 ~~life-threatening illness, who are catastrophically and severely~~
30 ~~disabled, persons who are provided care in a congregate living~~
31 ~~health facility-hospice or any combination of those persons, shall~~
32 ~~ensure that residents of these facilities receive supportive health~~
33 ~~services, based on individual resident acuity levels in the most~~
34 ~~normal, least restrictive physical environment for individual~~
35 ~~resident needs.~~

36 ~~(b) Pending adoption of the regulations pursuant to paragraphs~~
37 ~~(2) and (3) of subdivision (a), an entity shall be licensed as a~~
38 ~~congregate living health facility serving persons who are terminally~~
39 ~~ill, persons who are catastrophically and severely disabled, persons~~
40 ~~who are mentally alert but physically disabled, persons who are~~

1 provided care in a congregate living health facility-hospice, or any
2 combination of these persons, by the department beginning July
3 1, 1988, if it meets the requirements identified in subdivision (i)
4 of Section 1250 and in Section 1267.13.

5 SEC. 4. Section 1267.13 of the Health and Safety Code is
6 amended to read:

7 1267.13. Pursuant to paragraph (3) of subdivision (a) and
8 subdivision (b) of Section 1265.7, this section shall be effective
9 until the adoption of permanent regulations. Notwithstanding, the
10 state department has authority to make reasonable accommodation
11 for exceptions to the standards in this section, providing the health,
12 safety, and quality of patient care is not compromised. No
13 exceptions shall be made for building standards. Prior written
14 approval communicating the terms and conditions under which
15 the exception is granted shall be required. Applicants shall request
16 the exception in writing accompanied by detailed, supporting
17 documentation.

18 Congregate living health facilities serving persons who are
19 terminally ill, persons who are catastrophically and severely
20 disabled, persons who are mentally alert but physically disabled,
21 persons who are provided care in a congregate living health
22 facility-hospice, or any combination of these persons, shall conform
23 to the following:

24 (a) Facilities shall obtain and maintain a valid fire clearance
25 from the appropriate authority having jurisdiction over the facility,
26 based on compliance with state regulations concerning fire and
27 life safety, as adopted by the State Fire Marshal.

28 (b) The State Fire Marshal, with the advice of the State Board
29 of Fire Services, shall adopt regulations on or before January 1,
30 1991, following a public hearing, establishing minimum
31 requirements for the protection of life and property for congregate
32 living health facilities serving terminally ill persons,
33 catastrophically and severely disabled persons, persons who are
34 mentally alert but physically disabled, or any combination of these
35 persons. These minimum requirements shall recognize the
36 residential and noninstitutional setting of congregate living health
37 facilities serving terminally ill persons, catastrophically and
38 severely disabled persons, persons who are mentally alert but
39 physically disabled, or any combination of these persons.

1 ~~(e) Facilities shall be in a homelike residential setting. Living~~
2 ~~accommodations and grounds shall be related to the facility's~~
3 ~~function and clientele. Facilities shall provide sufficient space for~~
4 ~~comfortable living accommodations and privacy for residents,~~
5 ~~staff, and others who may reside in the facility.~~

6 ~~(d) Common rooms, including, but not limited to, living rooms,~~
7 ~~dining rooms, and dens or other recreation or activity rooms, shall~~
8 ~~be provided and shall have sufficient space, separation, or both to~~
9 ~~promote and facilitate the program of activities and to prevent~~
10 ~~these activities from interfering with other functions.~~
11 ~~Accommodations shall ensure adequate space for residents to have~~
12 ~~visitors and for privacy during visits, if desired.~~

13 ~~(e) Resident bedrooms shall have adequate space to allow easy~~
14 ~~passage throughout; permit comfortable usage of furnishings;~~
15 ~~promote ease of nursing care; and accommodate use of assistive~~
16 ~~devices, including, but not limited to, wheelchairs, walkers, and~~
17 ~~patient lifts, when needed.~~

18 ~~(f) No room commonly used for other purposes, including, but~~
19 ~~not limited to, a hall, stairway, attic, garage, storage area, shed, or~~
20 ~~similar detached building, shall be used as a sleeping room for any~~
21 ~~resident.~~

22 ~~(g) No resident bedroom shall be used as a passageway to~~
23 ~~another room, bath, or toilet.~~

24 ~~(h) Not more than two residents shall share a bedroom.~~

25 ~~(i) Equipment and supplies necessary for personal care and~~
26 ~~maintenance of adequate hygiene shall be readily available to all~~
27 ~~residents.~~

28 ~~(j) Toilets and bathrooms shall be conveniently located. At least~~
29 ~~one toilet and washbasin shall be provided per six residents. At~~
30 ~~least one bathtub or shower shall be provided per 10 residents.~~
31 ~~Individual privacy shall be provided in all toilet, bath and shower~~
32 ~~areas. Separate toilet, washbasin, and bathtub or shower~~
33 ~~accommodations shall be provided for staff.~~

34 ~~(k) Sufficient room shall be available throughout the facility to~~
35 ~~accommodate and serve all persons in comfort and safety. The~~
36 ~~premises shall be maintained in good repair and shall provide a~~
37 ~~safe, clean, and healthful environment.~~

38 ~~(l) Facilities shall have equipment and supplies appropriate to~~
39 ~~meet the routine and specialized needs of all residents.~~

1 ~~(m) All persons shall be protected from hazards throughout the~~
2 ~~premises:~~

3 ~~(1) Stairways, inclines, ramps, open porches, and other areas~~
4 ~~of potential hazard to residents with poor balance or eyesight shall~~
5 ~~be made inaccessible unless well lighted and equipped with sturdy~~
6 ~~hand railings.~~

7 ~~(2) Night lights shall be maintained in hallways and passages~~
8 ~~to nonprivate bathrooms.~~

9 ~~(3) All indoor and outdoor passageways and stairways shall be~~
10 ~~kept free of obstructions.~~

11 ~~(4) Fireplaces, woodstoves, and open-faced heaters shall be~~
12 ~~adequately screened.~~

13 ~~(5) Facilities shall assure the inaccessibility of fishponds, wading~~
14 ~~pools, hot tubs, swimming pools, or similar bodies of water or~~
15 ~~other areas of potential hazard when not in active use.~~

16 ~~(n) (1) Facilities serving persons who are terminally ill,~~
17 ~~catastrophically and severely disabled, mentally alert but physically~~
18 ~~disabled, or any combination of these persons, shall, in addition~~
19 ~~to the requirements of this chapter and until specific regulations~~
20 ~~governing their operation are filed, conform to regulations~~
21 ~~contained in Chapter 3 of Division 5 of Title 22 of the California~~
22 ~~Code of Regulations of April 1, 1988, with the exception of the~~
23 ~~following sections or portions of sections: 72007, 72053, 72073,~~
24 ~~subdivision (a) of Section 72077, 72097, 72099, 72103, 72203,~~
25 ~~subdivision (a) of Section 72205, 72301, 72305, subdivision (a)~~
26 ~~of Section 72325, 72327, 72329, 72331, 72337, subdivisions (b),~~
27 ~~(g), and (h) of Section 72351, 72353, subdivision (a) of Section~~
28 ~~72367, 72373, subdivision (b) of Section 72375, 72401, 72403,~~
29 ~~72405, 72407, 72409, 72411, 72413, 72415, 72417, 72419, 72421,~~
30 ~~72423, 72425, 72427, 72429, 72431, 72433, 72435, 72437, 72439,~~
31 ~~72441, 72443, 72445, 72447, 72449, 72451, 72453, 72455, 72457,~~
32 ~~72459, 72461, 72463, 72465, 72467, 72469, 72471, 72473, 72475,~~
33 ~~72503, paragraph (2) of subdivision (a) of Section 72513, 72520,~~
34 ~~72535, 72555, 72557, subdivisions (a) and (b) of Section 72601,~~
35 ~~subdivision (d) of Section 72607, subdivisions (a) and (d) of~~
36 ~~Section 72609, 72611, 72615, 72617, 72629, 72631, 72633, 72635,~~
37 ~~subdivisions (b), (c), and (d) of Section 72639, 72641, and 72665.~~

38 ~~(2) (A) A congregate living health facility-hospice shall comply~~
39 ~~with the requirements of this section, except for Section 1439.2,~~
40 ~~and except for Section 72315(h), (i), (j), and (k), Section 72323(d),~~

1 Section 72335(a)(1), Section 72341(a), Sections 72379 to 72389,
2 inclusive, and Section 72525 of Chapter 3 of Division 5 of Title
3 22 of the California Code of Regulations.

4 (B) An activity plan shall be developed and implemented for,
5 and reflect the personal preferences of, each resident. The activity
6 plan shall be integrated with the individual interdisciplinary patient
7 care plan.

8 (C) Chemicals may be used as a substitute for the methods
9 specified in Section 72323(c) of Division 5 of Title 22 of the
10 California Code of Regulations, if the product used is specifically
11 designed to be used as a substitute and is used in accordance with
12 the manufacturer's requirements.

13 (D) The hospice interdisciplinary team shall perform the
14 functions of the required committees as specified by Section 72525
15 of Division 5 of Title 11 of the California Code of Regulations.

16 (E) The department shall not count temporary sleeping
17 accommodations provided to permit family and friends to stay
18 with the residents of a congregate living health facility-hospice in
19 the number of licensed beds for purposes of compliance with
20 Section 1250, or Section 72607 of Division 5 of Title 22 of the
21 California Code of Regulations.

22 (F) A facility is not required to provide optional services.

23 (i) "Optional service" means a service of a congregate living
24 health facility-hospice that is organized, staffed, and equipped to
25 provide specific types of patient care.

26 (ii) A congregate living health facility-hospice may provide,
27 pursuant to federal law, including Section 418 of Title 42 of the
28 Code of Federal Regulations, the following types of optional
29 services:

30 (I) Direct inpatient care, including fire/life safety requirements.

31 (II) Optional services approved by the department.

32 (iii) A facility desiring approval for an optional service shall
33 file an application on a form furnished by the department for this
34 purpose.

35 (iv) The department shall approve each optional service within
36 the facility and list on the facility's license each optional service
37 for which the department has granted approval.

38 (o) (1) Facilities serving persons who are terminally ill,
39 catastrophically and severely disabled, mentally alert but physically
40 disabled, persons who are provided care in a congregate living

1 health facility-hospice, or any combination of these persons, shall
2 have an administrator who is responsible for the day-to-day
3 operation of the facility. The administrator may be either a licensed
4 registered nurse, a nursing home administrator, or the licensee.
5 The administrator shall be present at the facility a sufficient number
6 of hours to ensure the smooth operation of the facility. If the
7 administrator is also the registered nurse fulfilling the duties
8 specified in paragraph (2), the administrator shall not be responsible
9 for more than one facility. In all other circumstances, the
10 administrator shall not be responsible for more than three facilities
11 with an aggregate total of 75 beds and these facilities shall be
12 within one hour's surface travel time of each other.

13 (2) (A) For each congregate living health facility of more than
14 six beds serving persons who are terminally ill, catastrophically
15 and severely disabled, mentally alert but physically disabled, or
16 any combination of these persons, there shall be, at a minimum, a
17 registered nurse or licensed vocational nurse awake and on duty
18 at all times. A registered nurse shall be awake and on duty eight
19 hours a day, five days a week.

20 (B) For each congregate living health facility of six or fewer
21 beds serving persons who are terminally ill, catastrophically and
22 severely disabled, mentally alert but physically disabled, or any
23 combination of these persons, a registered nurse shall visit each
24 patient at least twice a week for approximately two hours, or more
25 as patient care requires.

26 (C) For all congregate living health facilities serving persons
27 who are terminally ill, catastrophically and severely disabled,
28 mentally alert but physically disabled, or any combination of these
29 persons, a registered nurse shall be available for consultation and
30 able to come into the facility within 30 minutes, if necessary, when
31 no registered nurse is on duty. In addition, certified nurse assistants,
32 or persons with similar training and experience as determined by
33 the department, shall be awake and on duty in the facility in at
34 least the following ratios: facilities with six beds or less, one per
35 shift; facilities with 7 to 12 beds, two per shift; facilities with 13
36 to 25 beds, three per day and evening shifts and two per nocturnal
37 shift. No nursing services personnel shall be assigned housekeeping
38 or dietary duties.

1 ~~(D) A congregate living health facility-hospice shall provide~~
2 ~~24-hour nursing services that meet the nursing needs of all patients~~
3 ~~and are furnished in accordance with each patient's plan of care.~~

4 ~~(i) Each patient shall receive all nursing services as prescribed~~
5 ~~in the patient's plan of care and shall be kept comfortable, clean,~~
6 ~~well-groomed, and protected from accident, injury, and infection.~~

7 ~~(ii) Each shift shall have at least one registered nurse or licensed~~
8 ~~vocational nurse awake and on duty.~~

9 ~~(iii) Each shift shall include a registered nurse who provides~~
10 ~~direct patient care when at least one patient is receiving general~~
11 ~~inpatient care.~~

12 ~~(iv) No registered nurse, licensed vocational nurse, certified~~
13 ~~nurse assistant, or home health aide may care for more than six~~
14 ~~residents.~~

15 ~~(v) The facility shall document the level of care provided to~~
16 ~~each resident and the staffing levels at each shift.~~

17 ~~(3) Notwithstanding the provisions of this subdivision, the~~
18 ~~facility shall provide appropriately qualified staff in sufficient~~
19 ~~numbers to meet patient care needs.~~

20 ~~(4) Nursing service personnel shall be employed and on duty~~
21 ~~in at least the number and with the qualifications determined by~~
22 ~~the department to provide the necessary nursing services for~~
23 ~~patients admitted for care. The department may require a facility~~
24 ~~to provide additional professional, administrative, or supportive~~
25 ~~personnel whenever the state department determines through a~~
26 ~~written evaluation, that additional personnel are needed to provide~~
27 ~~for the health and safety of patients.~~

28 ~~(5) All staff members shall receive orientation regarding care~~
29 ~~appropriate for the patients' diagnoses and individual resident~~
30 ~~needs. Orientation shall include a minimum of 16 hours during~~
31 ~~the first 40 hours of employment.~~

32 ~~(6) Nothing in this chapter shall prevent the use of volunteers;~~
33 ~~however, volunteers shall not be used as substitutes for the~~
34 ~~personnel required in the above sections. Volunteers providing~~
35 ~~patient care services shall:~~

36 ~~(A) Be provided clearly defined roles and written job~~
37 ~~descriptions.~~

38 ~~(B) Receive orientation and training equivalent to that provided~~
39 ~~paid staff.~~

1 ~~(C) Possess education and experience equal to that required of~~
2 ~~paid staff performing similar functions.~~

3 ~~(D) Conform to the facility's policies and procedures.~~

4 ~~(E) Receive periodic performance evaluations.~~

5 ~~(p) In addition to the requirements of this section, a congregate~~
6 ~~living health facility-hospice shall comply with the following:~~

7 ~~(1) Meet all standards for providing routine or continuous care~~
8 ~~to residents of the facility, in full compliance with Section 418 of~~
9 ~~Title 42 of the Code of Federal Regulations, as required by the~~
10 ~~federal Centers for Medicare and Medicaid Services.~~

11 ~~(2) Provide each patient with all of the following:~~

12 ~~(A) Full information regarding the patient's health status and~~
13 ~~options for end-of-life care.~~

14 ~~(B) Care that reflects a patient's preferences regarding~~
15 ~~end-of-life care, including the right to refuse any treatment or~~
16 ~~procedure.~~

17 ~~(C) Treatment with consideration, respect, and full recognition~~
18 ~~of the patient's dignity and individuality, including privacy in~~
19 ~~treatment and care of personal needs.~~

20 ~~(D) Entitlement to visitors of the patient's choosing, at any time~~
21 ~~the patient chooses, and with ensured privacy for those visits.~~

22 ~~(3) Draft and implement disaster preparedness plans for both~~
23 ~~internal and external disasters that protect the facility's patients,~~
24 ~~employees, and visitors, and reflect coordination with local~~
25 ~~agencies that are responsible for disaster preparedness and~~
26 ~~emergency response.~~

27 ~~(4) Continue to provide services to family and friends after the~~
28 ~~patient's stay in the facility in accordance with the patient's plan~~
29 ~~of care. Continuing services may be provided by the hospice~~
30 ~~program that operates the facility.~~

31 ~~(q) The interim standards prescribed by this section shall become~~
32 ~~inoperative upon the filing of the regulations with the Secretary~~
33 ~~of State.~~

34 ~~SEC. 5. Section 1267.15 of the Health and Safety Code is~~
35 ~~amended to read:~~

36 ~~1267.15. (a) A congregate living health facility shall be~~
37 ~~freestanding, but this does not preclude the facility from being~~
38 ~~located on the premises of a hospital.~~

39 ~~(b) The provisions of subdivision (a) shall not apply to a~~
40 ~~congregate living health facility-hospice.~~

1 ~~(1) A congregate living health facility-hospice may be located~~
2 ~~adjacent to, physically connected to, within the physical plant of,~~
3 ~~or on the building grounds of, another health facility.~~

4 ~~(2) A congregate living health facility-hospice may lease space~~
5 ~~from another hospital for purposes of obtaining a separate license,~~
6 ~~and the lease shall be considered a change of ownership for that~~
7 ~~space. Units or wings of another health facility leased and~~
8 ~~separately licensed to a congregate living health facility-hospice~~
9 ~~shall be deemed to be continuously licensed for purposes of~~
10 ~~meeting California building code requirements. Units or wings of~~
11 ~~another health facility leased and separately licensed to a~~
12 ~~congregate living health facility-hospice shall not be considered~~
13 ~~a change in use, unless renovations made by the congregate living~~
14 ~~health facility-hospice would result in a failure to comply with~~
15 ~~health facility building code standards, as required prior to the~~
16 ~~change of ownership. Upon termination of the lease agreement,~~
17 ~~or revocation of the congregate living health facility-hospice~~
18 ~~license, the space previously occupied by the congregate living~~
19 ~~health facility-hospice shall be placed back on the license of the~~
20 ~~health facility that leased the space.~~

21 ~~(3) A congregate living health facility-hospice shall demonstrate~~
22 ~~its ability to meet licensing and Medicare certification~~
23 ~~requirements, and shall be fully responsible for meeting these~~
24 ~~requirements, regardless of whether the requirements are met~~
25 ~~through direct provision by the facility, or through a contract with~~
26 ~~another health facility or entity. Reliance on contractors to meet~~
27 ~~the licensing requirements, including contracting with another~~
28 ~~health facility, does not exempt from or lessen the congregate~~
29 ~~living health facility-hospice's legal responsibilities.~~

30 ~~(4) The department shall hold the congregate living health~~
31 ~~facility-hospice accountable for a violation of licensing or~~
32 ~~certification requirements under Section 418 of Title 42 of the~~
33 ~~Code of Federal Regulations, regardless of whether the violation~~
34 ~~occurred as a result of services provided under contract with~~
35 ~~another health facility or entity, or the services were provided~~
36 ~~directly by the congregate living health facility-hospice.~~

37 ~~(5) Nothing shall preclude the department from holding~~
38 ~~accountable the health facility providing services under contract~~
39 ~~to the congregate living health facility-hospice, if the department~~

1 ~~determines that the facts also present a separate violation for the~~
2 ~~health facility providing services under contract.~~

3 ~~(e) A congregate living health facility shall be separately~~
4 ~~licensed.~~

5 *SEC. 3. Section 1250.1 of the Health and Safety Code is*
6 *amended to read:*

7 1250.1. (a) The state department shall adopt regulations that
8 define all of the following bed classifications for health facilities:

- 9 (1) General acute care.
- 10 (2) Skilled nursing.
- 11 (3) Intermediate care-developmental disabilities.
- 12 (4) Intermediate care—other.
- 13 (5) Acute psychiatric.
- 14 (6) Specialized care, with respect to special hospitals only.
- 15 (7) Chemical dependency recovery.
- 16 (8) Intermediate care facility/developmentally disabled
- 17 habilitative.
- 18 (9) Intermediate care facility/developmentally disabled nursing.
- 19 (10) Congregate living health facility.
- 20 (11) Pediatric day health and respite care facility, as defined in
- 21 Section 1760.2.
- 22 (12) Correctional treatment center. For correctional treatment
- 23 centers that provide psychiatric and psychological services
- 24 provided by county mental health agencies in local detention
- 25 facilities, the State Department of Mental Health shall adopt
- 26 regulations specifying acute and nonacute levels of 24-hour care.
- 27 Licensed inpatient beds in a correctional treatment center shall be
- 28 used only for the purpose of providing health services.

29 *(13) Hospice facility.*

30 (b) Except as provided in Section 1253.1, beds classified as
31 intermediate care beds, on September 27, 1978, shall be reclassified
32 by the state department as intermediate care—other. This
33 reclassification shall not constitute a “project” within the meaning
34 of Section 127170 and shall not be subject to any requirement for
35 a certificate of need under Chapter 1 (commencing with Section
36 127125) of Part 2 of Division 107, and regulations of the state
37 department governing intermediate care prior to the effective date
38 shall continue to be applicable to the intermediate care—other
39 classification unless and until amended or repealed by the state
40 department.

SEC. 4. Section 1266 of the Health and Safety Code is amended to read:

1266. (a) The Licensing and Certification Division shall be supported entirely by federal funds and special funds by no earlier than the beginning of the 2009–10 fiscal year unless otherwise specified in statute, or unless funds are specifically appropriated from the General Fund in the annual Budget Act or other enacted legislation. For the 2007–08 fiscal year, General Fund support shall be provided to offset licensing and certification fees in an amount of not less than two million seven hundred eighty-two thousand dollars (\$2,782,000).

(b) (1) The Licensing and Certification Program fees for the 2006–07 fiscal year shall be as follows:

| Type of Facility | Fee | |
|--|------------|--------------|
| General Acute Care Hospitals | \$ 134.10 | per bed |
| Acute Psychiatric Hospitals | \$ 134.10 | per bed |
| Special Hospitals | \$ 134.10 | per bed |
| Chemical Dependency Recovery Hospitals | \$ 123.52 | per bed |
| Skilled Nursing Facilities | \$ 202.96 | per bed |
| Intermediate Care Facilities | \$ 202.96 | per bed |
| Intermediate Care Facilities - Developmentally Disabled | \$ 592.29 | per bed |
| Intermediate Care Facilities - Developmentally Disabled - Habilitative | \$1,000.00 | per facility |
| Intermediate Care Facilities - Developmentally Disabled - Nursing | \$1,000.00 | per facility |
| Home Health Agencies | \$2,700.00 | per facility |
| Referral Agencies | \$5,537.71 | per facility |
| Adult Day Health Centers | \$4,650.02 | per facility |
| Congregate Living Health Facilities | \$ 202.96 | per bed |
| Psychology Clinics | \$ 600.00 | per facility |
| Primary Clinics - Community and Free | \$ 600.00 | per facility |
| Specialty Clinics - Rehab Clinics | | |
| (For profit) | \$2,974.43 | per facility |
| (Nonprofit) | \$ 500.00 | per facility |
| Specialty Clinics - Surgical and Chronic | \$1,500.00 | per facility |
| Dialysis Clinics | \$1,500.00 | per facility |
| Pediatric Day Health/Respite Care | \$ 142.43 | per bed |

| | | | |
|---|--------------------------------|------------|--------------|
| 1 | Alternative Birthing Centers | \$2,437.86 | per facility |
| 2 | Hospice | \$1,000.00 | per facility |
| 3 | Correctional Treatment Centers | \$ 590.39 | per bed |

4

5 (2) (A) In the first year of licensure for intermediate care
6 facility/developmentally disabled-continuous nursing (ICF/DD-CN)
7 facilities, the licensure fee for those facilities shall be equivalent
8 to the licensure fee for intermediate care facility/developmentally
9 disabled-nursing facilities during the same year. Thereafter, the
10 licensure fee for ICF/DD-CN facilities shall be established pursuant
11 to subdivisions (c) and (d).

12 (B) *In the first year of licensure for hospice facilities, the*
13 *licensure fee shall be equivalent to the licensure fee for congregate*
14 *living health facilities during that year. Thereafter, the licensure*
15 *fee for hospice facilities shall be established pursuant to*
16 *subdivisions (c) and (d).*

17 (c) Commencing February 1, 2007, and every February 1
18 thereafter, the department shall publish a list of estimated fees
19 pursuant to this section. The calculation of estimated fees and the
20 publication of the report and list of estimated fees shall not be
21 subject to the rulemaking requirements of Chapter 3.5
22 (commencing with Section 11340) of Part 1 of Division 3 of Title
23 2 of the Government Code.

24 (d) By February 1 of each year, the department shall prepare
25 the following reports and shall make those reports, and the list of
26 estimated fees required to be published pursuant to subdivision
27 (c), available to the public by submitting them to the Legislature
28 and posting them on the department's Internet Web site:

29 (1) The department shall prepare a report of all costs for
30 activities of the Licensing and Certification Program. At a
31 minimum, this report shall include a narrative of all baseline
32 adjustments and their calculations, a description of how each
33 category of facility was calculated, descriptions of assumptions
34 used in any calculations, and shall recommend Licensing and
35 Certification Program fees in accordance with the following:

36 (A) Projected workload and costs shall be grouped for each fee
37 category, including workload costs for facility categories that have
38 been established by statute and for which licensing regulations
39 and procedures are under development.

1 (B) Cost estimates, and the estimated fees, shall be based on
2 the appropriation amounts in the Governor's proposed budget for
3 the next fiscal year, with and without policy adjustments to the fee
4 methodology.

5 (C) The allocation of program, operational, and administrative
6 overhead, and indirect costs to fee categories shall be based on
7 generally accepted cost allocation methods. Significant items of
8 costs shall be directly charged to fee categories if the expenses can
9 be reasonably identified to the fee category that caused them.
10 Indirect and overhead costs shall be allocated to all fee categories
11 using a generally accepted cost allocation method.

12 (D) The amount of federal funds and General Fund moneys to
13 be received in the budget year shall be estimated and allocated to
14 each fee category based upon an appropriate metric.

15 (E) The fee for each category shall be determined by dividing
16 the aggregate state share of all costs for the Licensing and
17 Certification Program by the appropriate metric for the category
18 of licensure. Amounts actually received for new licensure
19 applications, including change of ownership applications, and late
20 payment penalties, pursuant to Section 1266.5, during each fiscal
21 year shall be calculated and 95 percent shall be applied to the
22 appropriate fee categories in determining Licensing and
23 Certification Program fees for the second fiscal year following
24 receipt of those funds. The remaining 5 percent shall be retained
25 in the fund as a reserve until appropriated.

26 (2) (A) The department shall prepare a staffing and systems
27 analysis to ensure efficient and effective utilization of fees
28 collected, proper allocation of departmental resources to licensing
29 and certification activities, survey schedules, complaint
30 investigations, enforcement and appeal activities, data collection
31 and dissemination, surveyor training, and policy development.

32 (B) The analysis under this paragraph shall be made available
33 to interested persons and shall include all of the following:

34 (i) The number of surveyors and administrative support
35 personnel devoted to the licensing and certification of health care
36 facilities.

37 (ii) The percentage of time devoted to licensing and certification
38 activities for the various types of health facilities.

39 (iii) The number of facilities receiving full surveys and the
40 frequency and number of follow up visits.

1 (iv) The number and timeliness of complaint investigations.

2 (v) Data on deficiencies and citations issued, and numbers of
3 citation review conferences and arbitration hearings.

4 (vi) Other applicable activities of the licensing and certification
5 division.

6 (e) (1) The department shall adjust the list of estimated fees
7 published pursuant to subdivision (c) if the annual Budget Act or
8 other enacted legislation includes an appropriation that differs
9 from those proposed in the Governor's proposed budget for that
10 fiscal year.

11 (2) The department shall publish a final fee list, with an
12 explanation of any adjustment, by the issuance of an all facilities
13 letter, by posting the list on the department's Internet Web site,
14 and by including the final fee list as part of the licensing application
15 package, within 14 days of the enactment of the annual Budget
16 Act. The adjustment of fees and the publication of the final fee list
17 shall not be subject to the rulemaking requirements of Chapter 3.5
18 (commencing with Section 11340) of Part 1 of Division 3 of Title
19 2 of the Government Code.

20 (f) (1) No fees shall be assessed or collected pursuant to this
21 section from any state department, authority, bureau, commission,
22 or officer, unless federal financial participation would become
23 available by doing so and an appropriation is included in the annual
24 Budget Act for that state department, authority, bureau,
25 commission, or officer for this purpose. No fees shall be assessed
26 or collected pursuant to this section from any clinic that is certified
27 only by the federal government and is exempt from licensure under
28 Section 1206, unless federal financial participation would become
29 available by doing so.

30 (2) For the 2006–07 state fiscal year, no fee shall be assessed
31 or collected pursuant to this section from any general acute care
32 hospital owned by a health care district with 100 beds or less.

33 (g) The Licensing and Certification Program may change annual
34 license expiration renewal dates to provide for efficiencies in
35 operational processes or to provide for sufficient cash flow to pay
36 for expenditures. If an annual license expiration date is changed,
37 the renewal fee shall be prorated accordingly. Facilities shall be
38 provided with a 60-day notice of any change in their annual license
39 renewal date.

1 *SEC. 5. Section 1746 of the Health and Safety Code is amended*
2 *to read:*

3 1746. For the purposes of this chapter, the following definitions
4 apply:

5 (a) “Bereavement services” means those services available to
6 the surviving family members for a period of at least one year after
7 the death of the patient, including an assessment of the needs of
8 the bereaved family and the development of a care plan that meets
9 these needs, both prior to and following the death of the patient.

10 (b) “Home Health Aide” has the same meaning as defined in
11 subdivision (c) of Section 1727.

12 (c) “Home health aide services” means those services described
13 in subdivision (d) of Section 1727 that provide for the personal
14 care of the terminally ill patient and the performance of related
15 tasks in the patient’s home in accordance with the plan of care in
16 order to increase the level of comfort and to maintain personal
17 hygiene and a safe, healthy environment for the patient.

18 ~~(b)~~

19 (d) “Hospice” means a specialized form of interdisciplinary
20 health care that is designed to provide palliative care, alleviate the
21 physical, emotional, social, and spiritual discomforts of an
22 individual who is experiencing the last phases of life due to the
23 existence of a terminal disease, and provide supportive care to the
24 primary caregiver and the family of the hospice patient, and that
25 meets all of the following criteria:

26 (1) Considers the patient and the patient’s family, in addition
27 to the patient, as the unit of care.

28 (2) Utilizes an interdisciplinary team to assess the physical,
29 medical, psychological, social, and spiritual needs of the patient
30 and the patient’s family.

31 (3) Requires the interdisciplinary team to develop an overall
32 plan of care and to provide coordinated care that emphasizes
33 supportive services, including, but not limited to, home care, pain
34 control, and limited inpatient services. Limited inpatient services
35 are intended to ensure both continuity of care and appropriateness
36 of services for those patients who cannot be managed at home
37 because of acute complications or the temporary absence of a
38 capable primary caregiver.

1 (4) Provides for the palliative medical treatment of pain and
2 other symptoms associated with a terminal disease, but does not
3 provide for efforts to cure the disease.

4 (5) Provides for bereavement services following death to assist
5 the family in coping with social and emotional needs associated
6 with the death of the patient.

7 (6) Actively utilizes volunteers in the delivery of hospice
8 services.

9 (7) To the extent appropriate, based on the medical needs of the
10 patient, provides services in the patient's home or primary place
11 of residence.

12 (e) *"Hospice facility" means a health facility as defined in*
13 *subdivision (n) of Section 1250.*

14 (e)

15 (f) *"Inpatient care arrangements" means arranging for those*
16 *short inpatient stays that may become necessary to manage acute*
17 *symptoms or because of the temporary absence, or need for respite,*
18 *of a capable primary caregiver. The hospice shall arrange for these*
19 *stays, ensuring both continuity of care and the appropriateness of*
20 *services.*

21 ~~(d) "Medical direction" means those services provided by a~~
22 ~~licensed physician and surgeon who is charged with the~~
23 ~~responsibility of acting as a consultant to the interdisciplinary~~
24 ~~team, a consultant to the patient's attending physician and surgeon,~~
25 ~~as requested, with regard to pain and symptom management, and~~
26 ~~a liaison with physicians and surgeons in the community.~~

27 (e)

28 (g) *"An interdisciplinary team" means the hospice care team*
29 *that includes, but is not limited to, the patient and patient's family,*
30 *a physician and surgeon, a registered nurse, a social worker, a*
31 *volunteer, and a spiritual caregiver. The team shall be coordinated*
32 *by a registered nurse and shall be under medical direction. The*
33 *team shall meet regularly to develop and maintain an appropriate*
34 *plan of care.*

35 (h) *"Medical direction" means those services provided by a*
36 *licensed physician and surgeon who is charged with the*
37 *responsibility of acting as a consultant to the interdisciplinary*
38 *team, a consultant to the patient's attending physician and surgeon,*
39 *as requested, with regard to pain and symptom management, and*
40 *a liaison with physician and surgeons in the community.*

1 (i) *“Multiple location” means a location or site from which a*
2 *hospice makes available basic hospice services within the service*
3 *area of the parent agency. A multiple location shares*
4 *administration, supervision, policies and procedures, and services*
5 *with the parent agency in a manner that renders it unnecessary*
6 *for the site to independently meet the licensing requirements.*

7 (j) *“Palliative care” refers to medical treatment,*
8 *interdisciplinary care, or consultation provided to the patient or*
9 *family members, or both, that have as its primary purposes*
10 *preventing or relieving suffering and enhancing the quality of life,*
11 *rather than curing the disease, as described in subdivision (b) of*
12 *Section 1339.31, of a patient who has an end-stage medical*
13 *condition.*

14 (k) *“Parent agency” means the part of the hospice that is*
15 *licensed pursuant to this chapter and that develops and maintains*
16 *administrative control of multiple locations. All services provided*
17 *by the multiple locations and parent agency are the responsibility*
18 *of the parent agency.*

19 ~~(f)~~

20 (l) *“Plan of care” means a written plan developed by the*
21 *attending physician and surgeon, the medical director or physician*
22 *and surgeon designee, and the interdisciplinary team that addresses*
23 *the needs of a patient and family admitted to the hospice program.*
24 *The hospice shall retain overall responsibility for the development*
25 *and maintenance of the plan of care and quality of services*
26 *delivered.*

27 (m) *“Preliminary services” means those services authorized*
28 *pursuant to subdivision (d) of Section 1749.*

29 ~~(g)~~

30 (n) *“Skilled nursing services” means nursing services provided*
31 *by or under the supervision of a registered nurse under a plan of*
32 *care developed by the interdisciplinary team and the patient’s*
33 *physician and surgeon to a patient and his or her family that pertain*
34 *to the palliative, supportive services required by patients with a*
35 *terminal illness. Skilled nursing services include, but are not limited*
36 *to, patient assessment, evaluation and case management of the*
37 *medical nursing needs of the patient, the performance of prescribed*
38 *medical treatment for pain and symptom control, the provision of*
39 *emotional support to both the patient and his or her family, and*
40 *the instruction of caregivers in providing personal care to the*

1 patient. Skilled nursing services shall provide for the continuity
2 of services for the patient and his or her family. Skilled nursing
3 services shall be available on a 24-hour on-call basis.

4 ~~(h)~~

5 (o) “Social services/counseling services” means those counseling
6 and spiritual care services that assist the patient and his or her
7 family to minimize stresses and problems that arise from social,
8 economic, psychological, or spiritual needs by utilizing appropriate
9 community resources, and maximize positive aspects and
10 opportunities for growth.

11 ~~(i)~~

12 (p) “Terminal disease” or “terminal illness” means a medical
13 condition resulting in a prognosis of life of one year or less, if the
14 disease follows its natural course.

15 ~~(j)~~

16 (q) “Volunteer services” means those services provided by
17 trained hospice volunteers who have agreed to provide service
18 under the direction of a hospice staff member who has been
19 designated by the hospice to provide direction to hospice
20 volunteers. Hospice volunteers may be used to provide support
21 and companionship to the patient and his or her family during the
22 remaining days of the patient’s life and to the surviving family
23 following the patient’s death.

24 ~~(k) “Multiple location” means a location or site from which a~~
25 ~~hospice makes available basic hospice services within the service~~
26 ~~area of the parent agency. A multiple location shares~~
27 ~~administration, supervision, policies and procedures, and services~~
28 ~~with the parent agency in a manner that renders it unnecessary for~~
29 ~~the site to independently meet the licensing requirements.~~

30 ~~(l) “Home health aide” has the same meaning as set forth in~~
31 ~~subdivision (c) of Section 1727.~~

32 ~~(m) “Home health aide services” means those services described~~
33 ~~in subdivision (d) of Section 1727 that provide for the personal~~
34 ~~care of the terminally ill patient and the performance of related~~
35 ~~tasks in the patient’s home in accordance with the plan of care in~~
36 ~~order to increase the level of comfort and to maintain personal~~
37 ~~hygiene and a safe, healthy environment for the patient.~~

38 ~~(n) “Parent agency” means the part of the hospice that is licensed~~
39 ~~pursuant to this chapter and that develops and maintains~~
40 ~~administrative controls of multiple locations. All services provided~~

1 by the multiple locations and parent agency are the responsibility
2 of the parent agency.

3 ~~(e) “Palliative” refers to medical treatment, interdisciplinary~~
4 ~~care, or consultation provided to the patient or family members,~~
5 ~~or both, that have as its primary purposes preventing or relieving~~
6 ~~suffering and enhancing the quality of life, rather than curing the~~
7 ~~disease, as described in subdivision (b) of Section 1339.31, of a~~
8 ~~patient who has an end-stage medical condition.~~

9 ~~(p) “Preliminary services” means those services authorized~~
10 ~~pursuant to subdivision (d) of Section 1749.~~

11 *SEC. 6. Section 1749.1 is added to the Health and Safety Code,*
12 *to read:*

13 *1749.1. (a) (1) Only a hospice licensed and certified in*
14 *California may apply for a hospice facility license.*

15 *(2) On or after the effective date of regulations to implement*
16 *this section, a hospice provider that seeks to provide short-term*
17 *inpatient respite or inpatient care directly in the hospice provider’s*
18 *own facility shall submit an application for licensure as a hospice*
19 *facility.*

20 *(3) A hospice provider that provides short-term inpatient respite*
21 *or inpatient care directly in the hospice provider’s own facility*
22 *prior to the effective date of regulations to implement this section*
23 *may also continue to be licensed as a specialty hospital, skilled*
24 *nursing facility, or congregate living health facility.*

25 *(4) Each application for a new or renewed hospice facility*
26 *license under this chapter shall be accompanied by an annual*
27 *Licensing and Certification Program fee set in accordance with*
28 *Section 1266.*

29 *(5) A hospice facility shall be separately licensed, irrespective*
30 *of the location of the facility.*

31 *(b) Hospice facility licensees shall be responsible for obtaining*
32 *criminal background checks for employees, volunteers, and*
33 *contractors in accordance with federal Medicare conditions of*
34 *participation (42 C.F.R. 418 et seq.) and as may be required in*
35 *accordance with state law. The hospice facility licensee shall pay*
36 *the costs of obtaining a criminal background check.*

37 *(c) Building standards adopted pursuant to this section relating*
38 *to fire and panic safety, and other regulations adopted pursuant*
39 *to this section, shall apply uniformly throughout the state. No city,*
40 *county, city and county, including a charter city or charter county,*

1 or fire protection district shall adopt or enforce any ordinance or
2 local rule or regulation relating to fire and panic safety in
3 buildings or structures subject to this section that is inconsistent
4 with the rules and regulations adopted pursuant to this section.

5 (d) The hospice facility shall meet the fire protection standards
6 set forth in federal Medicare conditions of participation (42 C.F.R.
7 418 et seq.). A hospice facility shall meet the same building
8 standards as a congregate living health facility as described in
9 subparagraph (B) of paragraph (2) of subdivision (i) of Section
10 1250.

11 (e) A hospice facility shall operate as a freestanding health
12 facility, but may also be located adjacent to, physically connected
13 to, or on the building grounds of, another health facility or
14 residential care facility. A hospice facility shall not be required
15 to submit construction plans to the Office of Statewide Health
16 Planning and Development for new construction or renovation.
17 As part of the application for licensure, the prospective licensee
18 shall submit evidence of compliance with local building codes. In
19 addition, the physical environment of the facility shall be adequate
20 to provide the level of care and service required by the residents
21 of the facility as determined by the department.

22 SEC. 7. Section 1749.3 is added to the Health and Safety Code,
23 to read:

24 1749.3. (a) In order for a hospice program to be licensed as
25 a hospice facility, it shall provide, or make provision for, all of
26 the following services and requirements:

- 27 (1) Medical direction and adequate staff.
- 28 (2) Skilled nursing services.
- 29 (3) Palliative care.
- 30 (4) Social services and counseling services.
- 31 (5) Bereavement services.
- 32 (6) Volunteer services.
- 33 (7) Dietary services.
- 34 (8) Pharmaceutical services.
- 35 (9) Physical therapy, occupational therapy, and
36 speech-language therapy.
- 37 (10) Patient rights.
- 38 (11) Disaster preparedness.
- 39 (12) An adequate, safe, and sanitary physical environment.
- 40 (13) Housekeeping services.

1 (14) *Patient medical records.*

2 (15) *Other administrative requirements.*

3 (b) *The department shall adopt regulations that establish*
4 *standards for the provision of the services in subdivision (a). These*
5 *regulations shall include, but are not limited to, all of the*
6 *following:*

7 (1) *Minimum staffing standards that require at least one licensed*
8 *nurse to be on duty 24 hours per day and a maximum of six patients*
9 *at any given time per direct care staff person.*

10 (2) *Patient rights provisions that provide each patient with all*
11 *of the following:*

12 (A) *Full information regarding his or her health status and*
13 *options for end-of-life care.*

14 (B) *Care that reflects individual preferences regarding*
15 *end-of-life care, including the right to refuse any treatment or*
16 *procedure.*

17 (C) *Treatment with consideration, respect, and full recognition*
18 *of dignity and individuality, including privacy in treatment and*
19 *care of personal needs.*

20 (D) *Entitlement to visitors of the patient's choosing, at any time*
21 *the patient chooses, and ensured privacy for those visits.*

22 (3) *Disaster preparedness plans for both internal and external*
23 *disasters that protect hospice patients, employees, and visitors,*
24 *and reflect coordination with local agencies that are responsible*
25 *for disaster preparedness and emergency response.*

26 (4) *Additional qualifications and requirements for licensure*
27 *above the requirements of this section and Section 1749.1.*

28 (c) *The hospice facility shall provide a home-like environment*
29 *that is comfortable and accommodating to both the patient and*
30 *the patient's visitors.*

31 (d) *The hospice facility shall continue to provide services to*
32 *family and friends after the patient's stay in the hospice facility in*
33 *accordance with the patient's plan of care. These services may be*
34 *provided by the hospice program that operates the hospice facility.*

35 (e) *The hospice facility shall demonstrate the ability to meet*
36 *licensing requirements and shall be fully responsible for meeting*
37 *all licensing requirements, regardless of whether those*
38 *requirements are met through direct provision by the facility or*
39 *under contract with another entity. The hospice facility's reliance*
40 *on contractors to meet the licensing requirements does not exempt*

1 *the hospice facility or in any way mitigate the hospice facility's*
2 *responsibilities.*

3 *SEC. 8. Section 128755 of the Health and Safety Code is*
4 *amended to read:*

5 128755. (a) (1) Hospitals shall file the reports required by
6 subdivisions (a), (b), (c), and (d) of Section 128735 with the office
7 within four months after the close of the hospital's fiscal year
8 except as provided in paragraph (2).

9 (2) If a licensee relinquishes the facility license or puts the
10 facility license in suspense, the last day of active licensure shall
11 be deemed a fiscal year end.

12 (3) The office shall make the reports filed pursuant to this
13 subdivision available no later than three months after they were
14 filed.

15 (b) (1) Skilled nursing facilities, intermediate care facilities,
16 intermediate care facilities/developmentally disabled, *hospice*
17 *facilities*, and congregate living facilities, including nursing
18 facilities certified by the state department to participate in the
19 Medi-Cal program, shall file the reports required by subdivisions
20 (a), (b), (c), and (d) of Section 128735 with the office within four
21 months after the close of the facility's fiscal year, except as
22 provided in paragraph (2).

23 (2) (A) If a licensee relinquishes the facility license or puts the
24 facility licensure in suspense, the last day of active licensure shall
25 be deemed a fiscal year end.

26 (B) If a fiscal year end is created because the facility license is
27 relinquished or put in suspense, the facility shall file the reports
28 required by subdivisions (a), (b), (c), and (d) of Section 128735
29 within two months after the last day of active licensure.

30 (3) The office shall make the reports filed pursuant to paragraph
31 (1) available not later than three months after they are filed.

32 (4) (A) Effective for fiscal years ending on or after December
33 31, 1991, the reports required by subdivisions (a), (b), (c), and (d)
34 of Section 128735 shall be filed with the office by electronic media,
35 as determined by the office.

36 (B) Congregate living health facilities are exempt from the
37 electronic media reporting requirements of subparagraph (A).

38 (c) A hospital shall file the reports required by subdivision (g)
39 of Section 128735 as follows:

1 (1) For patient discharges on or after January 1, 1999, through
2 December 31, 1999, the reports shall be filed semiannually by
3 each hospital or its designee not later than six months after the end
4 of each semiannual period, and shall be available from the office
5 no later than six months after the date that the report was filed.

6 (2) For patient discharges on or after January 1, 2000, through
7 December 31, 2000, the reports shall be filed semiannually by
8 each hospital or its designee not later than three months after the
9 end of each semiannual period. The reports shall be filed by
10 electronic tape, diskette, or similar medium as approved by the
11 office. The office shall approve or reject each report within 15
12 days of receiving it. If a report does not meet the standards
13 established by the office, it shall not be approved as filed and shall
14 be rejected. The report shall be considered not filed as of the date
15 the facility is notified that the report is rejected. A report shall be
16 available from the office no later than 15 days after the date that
17 the report is approved.

18 (3) For patient discharges on or after January 1, 2001, the reports
19 shall be filed by each hospital or its designee for report periods
20 and at times determined by the office. The reports shall be filed
21 by online transmission in formats consistent with national standards
22 for the exchange of electronic information. The office shall approve
23 or reject each report within 15 days of receiving it. If a report does
24 not meet the standards established by the office, it shall not be
25 approved as filed and shall be rejected. The report shall be
26 considered not filed as of the date the facility is notified that the
27 report is rejected. A report shall be available from the office no
28 later than 15 days after the date that the report is approved.

29 (d) The reports required by subdivision (a) of Section 128736
30 shall be filed by each hospital for report periods and at times
31 determined by the office. The reports shall be filed by online
32 transmission in formats consistent with national standards for the
33 exchange of electronic information. The office shall approve or
34 reject each report within 15 days of receiving it. If a report does
35 not meet the standards established by the office, it shall not be
36 approved as filed and shall be rejected. The report shall be
37 considered not filed as of the date the facility is notified that the
38 report is rejected. A report shall be available from the office no
39 later than 15 days after the report is approved.

(e) The reports required by subdivision (a) of Section 128737 shall be filed by each hospital or freestanding ambulatory surgery clinic for report periods and at times determined by the office. The reports shall be filed by online transmission in formats consistent with national standards for the exchange of electronic information. The office shall approve or reject each report within 15 days of receiving it. If a report does not meet the standards established by the office, it shall not be approved as filed and shall be rejected. The report shall be considered not filed as of the date the facility is notified that the report is rejected. A report shall be available from the office no later than 15 days after the report is approved.

(f) Facilities shall not be required to maintain a full-time electronic connection to the office for the purposes of online transmission of reports as specified in subdivisions (c), (d), and (e). The office may grant exemptions to the online transmission of data requirements for limited periods to facilities. An exemption may be granted only to a facility that submits a written request and documents or demonstrates a specific need for an exemption. Exemptions shall be granted for no more than one year at a time, and for no more than a total of five consecutive years.

(g) The reports referred to in paragraph (2) of subdivision (a) of Section 128730 shall be filed with the office on the dates required by applicable law and shall be available from the office no later than six months after the date that the report was filed.

(h) The office shall post on its Web site and make available to any person a copy of any report referred to in subdivision (a), (b), (c), (d), or (g) of Section 128735, subdivision (a) of Section 128736, subdivision (a) of Section 128737, Section 128740, and, in addition, shall make available in electronic formats reports referred to in subdivision (a), (b), (c), (d), or (g) of Section 128735, subdivision (a) of Section 128736, subdivision (a) of Section 128737, Section 128740, and subdivisions (a) and (c) of Section 128745, unless the office determines that an individual patient's rights of confidentiality would be violated. The office shall make the reports available at cost.

SEC. 9. Until the department promulgates regulations, the department may use the federal Centers for Medicare and Medicaid Services, Department of Health and Human Services Hospice Care regulations as contained in Sections 418.3 and 418.52 to 418.116, inclusive, of Title 42 of the Code of Federal Regulation, as those

1 *provisions read on December 31, 2010, as the basis for hospice*
2 *facility licensure.*

3 ~~SEC. 6.~~

4 *SEC. 10.* No reimbursement is required by this act pursuant to
5 Section 6 of Article XIII B of the California Constitution because
6 the only costs that may be incurred by a local agency or school
7 district will be incurred because this act creates a new crime or
8 infraction, eliminates a crime or infraction, or changes the penalty
9 for a crime or infraction, within the meaning of Section 17556 of
10 the Government Code, or changes the definition of a crime within
11 the meaning of Section 6 of Article XIII B of the California
12 Constitution.

O